



USEPA Announces Delisting and Determination of Equivalent Treatment Petitions

Introduction

The Lawrence Berkeley National Laboratory (LBNL) Tritium Labeling Facility generates mixed wastes —wastes that are both radioactive and considered hazardous under the Resource Conservation and Recovery Act (RCRA). Since 1996, LBNL has been conducting a treatability study to identify and evaluate alternative methods for treating the mixed wastes. The facility has been testing a method in which the hazardous chemicals in the mixed waste are destroyed through catalytic chemical oxidation (CCO), leaving radioactivity as the only remaining hazard. Recently, LBNL submitted to the U.S. Environmental Protection Agency, Region 9, (USEPA) two petitions requesting:

1. “Delisting,” or exclusion of residual waste generated from the CCO treatment process from the RCRA hazardous waste list; and
2. A Determination of Equivalent Treatment to ensure that the CCO treatment process meets Federal regulations.

Opportunity for Comment

The delisting process is a public rule making process. A proposed decision will be published in the federal register and open for public comment for 45 days. Additionally, if requested in writing during the public comment period, EPA will also hold a public hearing. Please contact Vicky Semones at 415-744-2184 or 800-231-3075 for more information.

This fact sheet is organized into two sections summarizing each of the petitions and discussing the next steps.

Petition 1: Delisting

Delisting is a rulemaking procedure by which USEPA relieves facilities of the obligation to manage specific wastes as ‘hazardous’ in accordance with RCRA. USEPA defines certain wastes as hazardous according to specific characteristics (e.g., it is corrosive) and lists them in the Code of Federal Regulations, Chapter 40, Part 262, Subpart D. In this way, EPA requires that facilities manage these wastes as hazardous.

In some cases, however, a facility might generate a listed waste that does not exhibit the hazardous characteristics for which it was listed. For example, a waste is listed because it is usually corrosive. However, the waste as generated by a certain facility is not corrosive. If the waste does not present a hazard to either human health or the environment for any other reason, the facility may petition USEPA to delist the waste and allow the facility to appropriately treat it as a non-hazardous waste. USEPA responds to these petitions on a case-by-case basis. RCRA regulations provide the delisting petition process to avoid placing unnecessary regulatory burdens on facilities.

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Summary of LBNL's Delisting Petition

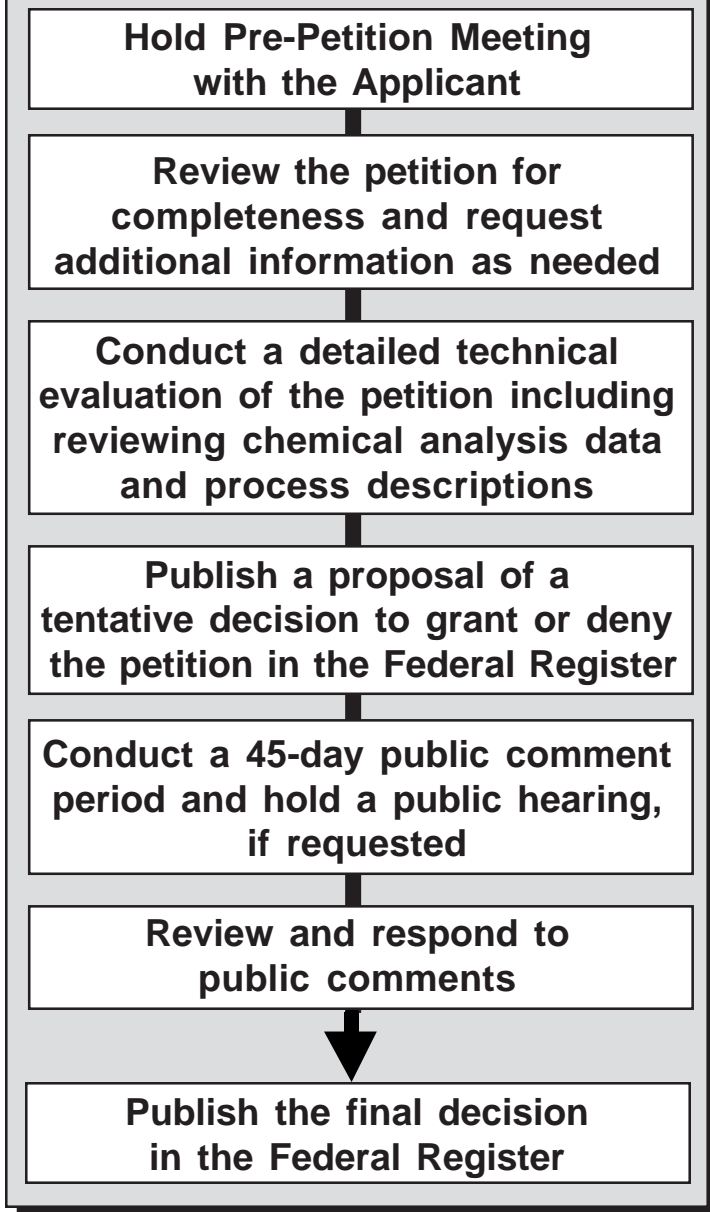
Although the CCO technology used by LBNL to treat the mixed waste removes the hazardous characteristics, the facility is still required to treat the residual waste as both hazardous and radioactive. The petition requests that LBNL be allowed to treat the residual waste as radioactive only. LBNL is requesting this exemption for two wastes: the residual waste resulting from the treatment process and the "bubbler" water generated as a by-product of the treatment process.

Reviewing the Delisting Petition

Figure 1 (right) illustrates the steps for reviewing the delisting petition. Although the California Department of Toxic Substances Control (DTSC) generally implements USEPA's regulations in California, DTSC is not authorized to grant delisting petitions. USEPA will be reviewing the petition and making the final decision. However, USEPA will coordinate with DTSC on the technical issues in the petition.

The final notice will contain USEPA's response to comments, the final decision, and regulatory language amending 40 CFR 261, Appendix IX, for the delisted waste.

Figure 1: Delisting Petition Review Process



How will LBNL Manage Treated Wastes if the Petition for Delisting is Granted?

If LBNL's petition to delist the treated wastes is granted, the facility will be allowed to manage the waste as non-hazardous as long as the amount of chemicals in the wastes are below the concentration limits published in 40 CR 261, Appendix IX. Because the treated waste is radioactive, LBNL will still have to manage the waste in accordance with all applicable laws and regulations governing radioactive waste. LBNL has indicated that they

are considering two options for managing the treated waste:

1. Disposing the waste in a permitted low-level radioactive waste landfill, or
2. Transporting the waste to a recycling facility that can further treat and recycle tritium from the water.



Petition 2: Determination of Equivalent Treatment

Because the mixed wastes generated by LNBL are ignitable, Federal land disposal regulations require that they be treated through combustion technology prior to land disposal. LBNL's petition for a Determination of Equivalent Treatment asks USEPA to rule on whether the CCO treatment technology they have been using to treat their mixed waste is considered "combustion". If USEPA does not consider the CCO technology to be combustion, LBNL requests that the Agency approve the technology as an equivalent treatment to combustion.

Reviewing the Determination of Equivalent Treatment Petition

EPA's process of ruling on a Determination of Equivalent Treatment Petition is very similar to the steps for reviewing the delisting petition. The proposed Federal Register Notice, public comment period, public hearing, and final Federal Register Notice for this process will be conducted together with the delisting petition process. However, EPA Headquarters, Office of Solid Waste will review this Determination of Equivalent Treatment petition because the regional EPA offices do not have the authority to grant such petitions.



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Return to: **Vicky Semones**
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For More Information

For technical information about the site or information on the RCRA delisting and determination of alternative treatment process, please contact:

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For additional fact sheets or general information on the RCRA delisting and determination of alternative treatment process, contact:



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